

# SMALL WIRELESS FACILITIES REGULATIONS

Item 6a: Ordinance Adding Chapter 8.36 (Small Wireless Facilities In the Public Right-of-Way and utility easements in public and Private Properties) to Title 8 of the Municipal Code and Adopt a Resolution with Small Wireless Facilities Design and Siting Guidelines, Engineering Design Standards, and Standard Conditions of Approval

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**City Council**

June 11, 2019

**Darcy Smith,  
Community and Economic Development Director**



# Agenda

- I. Objective
- II. Background – Federal Regulations
- III. Planning Commission and Community Engagement
- IV. Ordinance Overview
- V. Resolution Overview
- VI. City Council Review - May 14, 2019
- VII. Tonight's Action
- VIII. Questions

# Objective

- Waive First Reading and Introduce an Ordinance Adding Chapter 8.36 (Small Wireless Facilities In the Public Right-of-Way and utility easements in public and Private Properties) to Title 8 (Streets, Sidewalks, and Rights-of-Way) and Adopt a Resolution with Small Wireless Facilities Design and Siting Guidelines, Engineering Design Standards, and Standard Conditions of Approval

## Background – Federal Regulation

## Small Wireless Facilities

- Emerged as a result of growing demand for wireless service and speed
- Complement or stretch macro cellular facility coverage and add capacity in high demand areas.
- Small antennas mounted on a structure typically 50 feet or less in height
- Installed on a range of facilities in public right-of-way
- Supporting wireless equipment, such as power cabinets
- Safety of facilities, including radiofrequency emissions, is primarily regulated by the California Public Utilities Commission and Federal Communications Commission



# Federal Regulations

- Federal Communications Commission (FCC) approved federal small wireless facility rules: “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment”
- Clarify and restrict the authority of state and local governments to regulate small wireless facilities.
- Wireless providers and telephone companies have a right to use the public rights-of-way and utility infrastructure for their facilities
- Easier and faster for wireless companies to quickly expand and enhance their networks.

## Federal Regulations

- Cities can adopt **objective aesthetic standards** to regulate the design and location of facilities (within state and federal limits)
- Standards must be **reasonable and no more burdensome** than those applied to other types of infrastructure in the right-of-way
- Regulations cannot have the effect of actually or effectively **prohibiting service**
- Restrictive application processing deadlines (“shot clocks”) set firm deadlines for processing:
  - **60 days** for small cell wireless facility attached to existing poles or structures
  - **90 days** for small cell wireless facilities on new poles or structures



## How is Our Community Responding?

- Joined Coalition with other cities to appeal the FCC order
- Website developed with extensive information and FAQ – updates posted frequently
- Interested parties list to notify public of all meetings
- Three Planning Commission Study Sessions
- One Planning Commission public meeting to review Draft Ordinance and Resolution
- Community Engagement Meeting
- New Ordinance, application process, and regulations developed in response to FCC Regulations

# Planning Commission Meetings and Community Engagement

# Planning Commission Meetings

- Four Meetings:
  - October 12, 2018
  - November 20, 2018
  - January 15, 2019
  - March 19, 2019
- Review and education on Federal Regulations
- Examination of current City Regulations and other Cities' regulations
- Review of Draft Ordinance and Resolution

# Community Engagement Session

- Three feedback stations
- Community input forms



## Types of Facilities

- Facilities attached to existing wooden utility poles and utility lines- top extension or side arm mounting
- Facilities attached to streetlights and traffic signal control poles
- New freestanding poles



# Ordinance and Resolution Overview

# Guiding Policy Principles

- **Achieve compliance with new federal law**
  - Objective standards
  - Ensure application processing compliance with Shot Clocks of 60 or 90 days
  - Ensure decision making process is based on substantial evidence and does not effectively prohibit service
- **Establish regulations for design and location**
  - Concealment / Screening
  - Height and Size
  - Location
  - Mounting

# Ordinance Overview

- Ordinance will amend Municipal Code Title 8: Streets, Sidewalks, and Rights-of-Way
- Utilities and structures within the City's public rights-of-way are regulated by Title 8
- Small wireless facilities will be administered by the City's Public Works Department through a newly developed Wireless Facility Permit process



## Key Features of the Ordinance

- 300 foot public notification provided at the time of application
- Copy of Decision provided to public if requested
- Right of appeal to the City Manager
- Recommended to ensure compliance with Processing Deadlines of 60 for existing poles or structures, or 90 days for new poles or structures
- Similar to other administrative permit processes

# Key Features of the Application Process

- Director of Public Works, or his/her designee will be decision maker
- Peer and Independent Consultant Review
- Compliance with all aesthetic design guidelines and engineering standards
- Standard Conditions of Approval



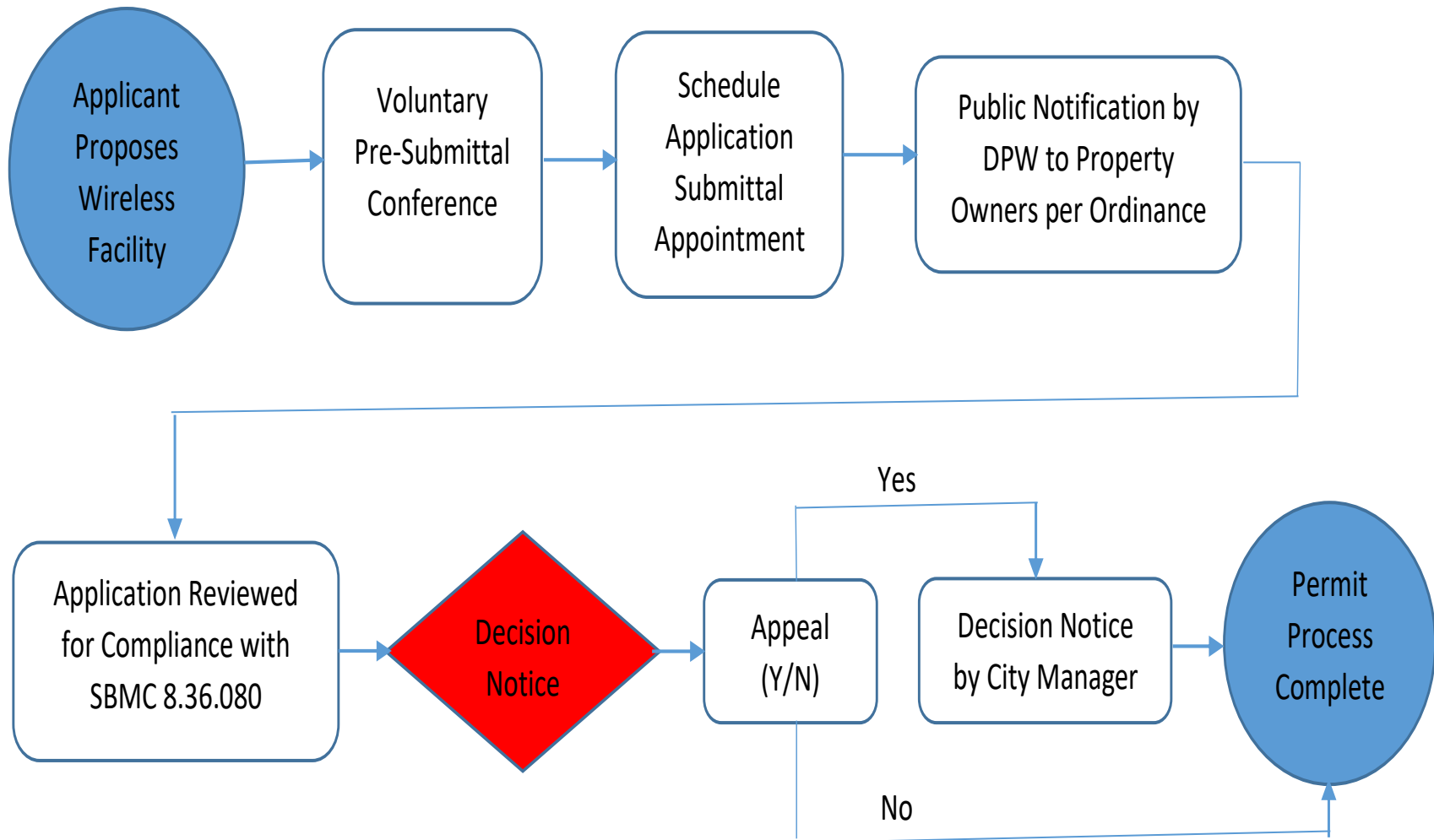
# Application Process Submittal Timeline



## Items to Complete:

- Application submittal
- Public Notice
- Review of Application – May require resubmittals
- Decision on Application
- Appeal Deadline

# Application Process Flow Chart



# Key Features of the Permit Conditions of Approval

- Maintenance of the facility
- Compliance with approved plans
- Inspection and access by City staff
- Insurance and indemnity provisions to protect the City
- Performance bonds
- Maintenance obligations
- Compliance and independent testing to ensure full adherence to FCC rules for RF emissions

## Key Features of the Design and Siting Guidelines

- Designed to provide flexibility to respond to the many different location contexts present in San Bruno
- Installations should be **concealed** to the **maximum extent feasible**
- One facility per structure - Facilities should be no closer than **300 feet away**, radially, from another small wireless facility
- Equipment should be located entirely on the pole in a **vertical arrangement** and **shrouded/concealed**
- Supporting equipment should be **undergrounded** in areas where undergrounding has occurred

# Key Features of the Design and Siting Guidelines

- Should not be installed such that the facility damages existing City street trees
- Maximum height of **50 feet**
- New poles should **replicate the materials, color, and finish** of existing infrastructure nearby
- Siting location preferences in which Industrial and Combining Industrial zoning districts are the highest ranked preference and low-density residential districts with single-family or two-family residential uses are the **least preferred locations**

## City Council Review - May 14<sup>th</sup> Meeting



# City Council Review

## Maximum Facility Height

- City Council Discussion: 50 foot maximum height acceptable

## Public Notification

- City Council Discussion: 500 feet noticing radius discussed. Suggested other alternatives such as door hangers or notices posted on poles or using other forms of technology  
Staff recommendation: 300 feet for consistency.

Ordinance modification includes requirement that the public notice be placed on the proposed pole or other location.

# City Council Review - May 14 Meeting

## Appeals Process

- City Council Discussion: More information about appeals process and fee requested

Staff recommendation:

Appeals fee of \$225 – consistent with lowest appeal fee for any City administrative decisions

# City Council Review - May 14 Meeting

## **Appeals Process Proposed:**

- Appeal of Public Works Director's Decision of a wireless facility permit submitted to the City Manager's office within the prescribed time in the Ordinance.
- Appeal distributed to City Council for informational purposes, to applicant for written response, and to staff.
- Staff prepares written recommendation after reviewing appeal and any written response by applicant.

## City Council Review - May 14 Meeting

### **Appeals Process (Continued)**

- City Manager schedules and holds hearing to include appellant, staff, and applicant, and then renders written Decision on wireless facility permit to approve, conditionally approve, or deny the permit.
- Decision distributed to appellant, applicant, staff, and City Council.

# City Council Review - May 14 Meeting

## **Damage to Public Infrastructure**

- City Council Discussion: Concerns regarding the restoration of public infrastructure with respect to the construction work for wireless facilities

Staff recommendation:

Revised and added Conditions of Approval in Resolution to address this and ensure that any damage to the City's infrastructure is restored.

## Final Ordinance and Resolution

- Includes final changes recommended by City Attorney and outside counsel
- Substantive changes requested by AT&T and Verizon in their official comment letters rejected

## Tonight's Action – Request to City Council

- Waive First Reading and Introduce an Ordinance Adding Chapter 8.36 (Small Wireless Facilities In the Public Right-of-Way and utility easements in public and Private Properties) to Title 8 (Streets, Sidewalks, and Rights-of-Way) and Adopt a Resolution with Small Wireless Facilities Design and Siting Guidelines, Engineering Design Standards, and Standard Conditions of Approval

# QUESTIONS?

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